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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/975,006	10/10/2001	David P. Aschenbeck	25019A	8542
22889	7590	05/02/2006	EXAMINER	
OWENS CORNING			WATKINS III, WILLIAM P	
2790 COLUMBUS ROAD			ART UNIT	
GRANVILLE, OH 43023			PAPER NUMBER	
			1772	
DATE MAILED: 05/02/2006				

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/975,006

Applicant(s)

ASCHENBECK ET AL.

Examiner

William P. Watkins III

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 14 February 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-9, 11-54, 56 and 57 is/are pending in the application.
- 4a) Of the above claim(s) 1-7, 11-52, 54, 56 and 57 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 8 and 9 is/are allowed.
- 6) ☒ Claim(s) 53 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

#### DETAILED ACTION

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 14 February 2006 has been entered.

2. Claim 53 is objected to because of the following informalities: the phrase "an asphalt-based" amended into part (F) of claim 53 has an editing tag associated with it. The examiner constructs this as being a typographical error that does not imply any meaning in terms of the claim language. Appropriate correction is required.

3. The rejection against claim 53 using Hansen in view of George et al. in section 3 of the office mailed 30 November 2005 is withdrawn in view of applicant's amendment to the claim and the arguments presented in the paper filed 14 February 2006.

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Two new grounds of rejection under 35 U.S.C. 103 are given below against claim 53.

4. Claims 8 and 9 remain allowed due to the withdrawal of previous rejections for the reasons noted in sections 1 and 2 of the detailed portion of the office action mailed 30 November 2005, section 2 of the detailed portion of the office action mailed 24 June 2005, and sections 2 and 3 of the detailed portion of the office action mailed 16 March 2004.

5. Claim 53 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hansen (U.S. 4,405,680) in view of George et al. (U.S. 5,516,573) further in view of Miller et al. (WO 00/40794).

Hansen teaches a glass fiber mat, which is saturated with an unblown asphalt composition that may have 0 to 80% fillers (col. 3, lines 10-15, col. 1, lines 60-69). The saturated mat is coated on the top and bottom layers with a blown asphalt with may have 1 to 80% filler (col. 4, lines 1-5, col. 3, lines 45-55). Top layer granules, as known in the shingle art, may be used (col. 4, lines 5-10, abstract). The total layers of Hansen may be at least 1/8 inch in thickness (col. 4, line 50). George

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et al. teaches the use of an adhesive that forms the top part of the top asphalt coating layer of a reinforced shingle. The adhesive layer increases the ability of the outer layer granules to adhere to the top coating layer under various wet and dry tests (abstract, col. 9, line 35 through col. 12, lines 15).

Miller et al. teaches the use of asphalt based adhesives as well as other thermoset and thermoplastic adhesives to form protective and adhesive layers on top of asphalt coat layers to better join granules to the asphalt coat layers (page 10, lines 15-20 and 25-35).

The instant invention claims an asphalt layer on top of a saturated glass fiber layer whose under side is coated with an asphalt layer, the top layer has increased ability to retain roofing granules compared to the bottom layer (part (F) of claim 53). It would have been obvious to one of ordinary skill in the art to have used an adhesive on the top asphalt layer of Hansen in order to increase the ability of the top layer to retain granules because of the teachings of George et al. It further would have been obvious to one of ordinary skill in the art to have used an asphalt based adhesive as the adhesive in the outer layer of Hansen in view of George et al. because of the teachings of Miller et al. that asphalt based adhesives are also

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effective to increase binding of granules on roofing. As the PTO does not have experimental facilities, the examiner assumes that the increased granule retention of the top layer of Hansen in view of George et al. as modified by Miller et al. meets the granule loss limitation of the ASTM Method D4977 test of instant claim 53, absent evidence to the contrary.

6. Claim 53 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hansen (U.S. 4,405,680) in view of George et al. (U.S. 5,516,573) further in view of Chaverot et al. (U.S. 5,120,777).

Hansen teaches a glass fiber mat, which is saturated with an unblown asphalt composition that may have 0 to 80% fillers (col. 3, lines 10-15, col. 1, lines 60-69). The saturated mat is coated on the top and bottom layers with a blown asphalt with may have 1 to 80% filler (col. 4, lines 1-5, col. 3, lines 45-55). Top layer granules, as known in the shingle art, may be used (col. 4, lines 5-10, abstract). The total layers of Hansen may be at least 1/8 inch in thickness (col. 4, line 50). George et al. teaches the use of an adhesive that forms the top part of the top asphalt coating layer of a reinforced shingle. The adhesive layer increases the ability of the outer layer granules

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to adhere to the top coating layer under various wet and dry tests (abstract, col. 9, line 35 through col. 12, lines 15). Chaverot et al. teaches an asphalt mixture that has increased adhesiveness with granules under conditions that have high levels of moisture (abstract, col. 9, line 35 through col. 10, lines 30).

The instant invention claims an asphalt layer on top of a saturated glass fiber layer whose under side is coated with an asphalt layer, the top layer has increased ability to retain roofing granules compared to the bottom layer (part (F) of claim 53). It would have been obvious to one of ordinary skill in the art to have used an adhesive on the top asphalt layer of Hansen in order to increase the ability of the top layer to retain granules because of the teachings of George et al. It further would have been obvious to have increased the adhesion of the asphalt and granules by using an asphalt that has increased adhesive ability in order to avoid use of a separate outer adhesive layer because of the teachings of Chaverot et al. As the PTO does not have experimental facilities, the examiner assumes that the increased granule retention of the top layer of Hansen in view of George et al. as modified by Chaverot et al.

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meets the granule loss limitation of the ASTM Method D4977 test of instant claim 53, absent evidence to the contrary.

7. Applicant's arguments filed 14 February 2006 have been fully considered but are moot in view of the new grounds of rejection.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to William P. Watkins III whose telephone number is 571-272-1503. The examiner works an increased flex time schedule, but can normally be reached Monday through Friday, 11:30 A.M. through 8:00 P.M. Eastern Time. The examiner returns all calls within one business day unless an extended absence is noted on his voice mail greeting.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Harold Pyon can be reached on 571-272-1498. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



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WW/ww

April 28, 2006

A handwritten signature in black ink, appearing to read "William P. Watkins III". The signature is written in a cursive style with a large, stylized "W" and "I".

**WILLIAM P. WATKINS III  
PRIMARY EXAMINER**